

# Exhibit 10

Leah McLawrence - May 8, 2008  
Adam Jernow and Leah McLawrence v. Wendy's International, Inc.

1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 -----

4 ADAM JERNOW and LEAH McLAWRENCE,

5 on behalf of themselves and all

6 others similarly situated,

7 Plaintiffs,

8 No. 07-CV-

9 -against- 3971

10 (LTS)

11 WENDY'S INTERNATIONAL, INC.,

12 Defendant.

13 -----

14 May 8, 2008

15 9:58 a.m.

16

17 Deposition of LEAH McLAWRENCE, taken by

18 Defendant, pursuant to Notice, at the offices

19 of Dreier, LLP, 499 Park Avenue, New York, New

20 York, before Lisa Rosenfeld, a Shorthand Reporter

21 and Notary Public within and for the State of New

22 York.

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<p>1 Q. -- in connection with this case?</p> <p>2 A. No.</p> <p>3 Q. Aside from documents, anything like</p> <p>4 photographs or items from Wendy's or anything</p> <p>5 like that that you've given to your lawyers?</p> <p>6 A. No.</p> <p>7 MR. McLISH: Defendant's Exhibit 19.</p> <p>8 (Defendant's Exhibit 19, Objections</p> <p>9 and responses to Wendy's interrogatories,</p> <p>10 was so marked for identification.)</p> <p>11 Q. Ms. McLawrence, the court reporter</p> <p>12 has handed you what's been marked as Defendant's</p> <p>13 Exhibit 19, and again I'll ask you to take a</p> <p>14 moment and look at it, and my question is going</p> <p>15 to be whether you have seen this document before?</p> <p>16 A. Yes.</p> <p>17 Q. Are these your objections and</p> <p>18 responses to Wendy's interrogatories to you in</p> <p>19 this case?</p> <p>20 A. Yes.</p> <p>21 Q. Did you review these objections and</p> <p>22 responses --</p>	<p>1 Q. So you have discussed the lawsuit</p> <p>2 with at least your family, right?</p> <p>3 MR. REESE: Objection.</p> <p>4 Mischaracterizes her testimony.</p> <p>5 Q. You told someone in your family that</p> <p>6 you're a party to a lawsuit against Wendy's,</p> <p>7 right, that's what you just said?</p> <p>8 A. Yes.</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14 REDACTED</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
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<p>1 A. Yes.</p> <p>2 Q. -- before they were served on</p> <p>3 Wendy's?</p> <p>4 A. Yes.</p> <p>5 Q. And are all of your responses stated</p> <p>6 in Defendant's Exhibit 19 accurate to your</p> <p>7 knowledge?</p> <p>8 A. Yes.</p> <p>9 Q. Other than your lawyers, who have you</p> <p>10 discussed this lawsuit with?</p> <p>11 A. No one.</p> <p>12 Q. Not your family?</p> <p>13 MR. REESE: Objection. Asked and</p> <p>14 answered.</p> <p>15 But you can answer.</p> <p>16 A. No.</p> <p>17 Q. Does your family know that you're a</p> <p>18 party to a lawsuit against Wendy's?</p> <p>19 A. Yes.</p> <p>20 Q. How do they know that?</p> <p>21 A. I told them that I'm part of a</p> <p>22 lawsuit against Wendy's.</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11 REDACTED</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

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<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11 REDACTED</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p>1</p> <p>2</p> <p>3</p> <p>4 REDACTED</p> <p>5</p> <p>6</p> <p>7</p> <p>8 A. No.</p> <p>9 Q. She just said there was a possible</p> <p>10 lawsuit against Wendy's?</p> <p>11 A. Yes.</p> <p>12 Q. Did she say -- did she talk to you</p> <p>13 about becoming a plaintiff in the lawsuit?</p> <p>14 A. No.</p> <p>15 Q. Did there come a time when Mr.</p> <p>16 Richman became your lawyer?</p> <p>17 A. Yes.</p> <p>18 Q. When was that?</p> <p>19 A. Two weeks after I contacted him.</p> <p>20 Q. When you first contacted him, you</p> <p>21 called him on the telephone, is that right?</p> <p>22 A. I sent him an e-mail.</p>
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<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11 REDACTED</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p>1 Q. What did you say in the e-mail?</p> <p>2 A. I said to him that I was speaking to</p> <p>3 my aunt and she had mentioned something about it,</p> <p>4 about the Wendy's lawsuit. I didn't know the</p> <p>5 details. And he explained to me what it was</p> <p>6 about and I was interested.</p> <p>7 Q. Did he respond to your e-mail with an</p> <p>8 e-mail?</p> <p>9 A. No, he gave me a call.</p> <p>10 Q. He called you up on the telephone?</p> <p>11 A. Yes.</p> <p>12 Q. And what did he say?</p> <p>13 MR. REESE: I'm going to object. At</p> <p>14 this point I think the attorney-client</p> <p>15 relationship has been formed, and so that</p> <p>16 any communications between Ms. McLawrence</p> <p>17 and Mr. Richman are privileged and I'm</p> <p>18 going to instruct you not to answer.</p> <p>19 Q. At that time, was it your</p> <p>20 understanding that there was already a lawsuit in</p> <p>21 existence?</p> <p>22 A. I don't understand the question.</p>

8 (Pages 26 to 29)

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1 was being used in the food.	1 Q. Did you have any business dealings
2 Q. Let's try to pinpoint when this	2 with anyone employed by or affiliated with your
3 happened. Was it sometime in 2007 that you had	3 lawyers or their law firms?
4 your first conversation with Mr. Richman?	4 A. No.
5 A. No.	5 Q. Does your aunt still work for Kim
6 Q. What year was it?	6 Richman?
7 A. 2008.	7 A. Yes.
8 Q. What month in 2008?	8 Q. Have you ever been a party to any
9 A. January.	9 other litigation?
10 Q. So before January 2008 you weren't	10 A. No.
11 aware of any claim you might have against	11 Q. Have you ever been charged with a
12 Wendy's, is that right?	12 crime?
13 A. No.	13 A. No.
14 Q. No, that's not right, or no, you	14 Q. You mentioned that you have eaten
15 weren't aware? I'm sorry, my question was a bad	15 Wendy's food in the past, is that right?
16 one.	16 A. Yes.
17 MR. REESE: Objection.	17 Q. When is the last time that you ate
18 Q. Prior to January 2008, were you aware	18 Wendy's food?
19 of any possible claim against Wendy's that you	19 A. Last month.
20 might have?	20 Q. So in April of 2008, is that right?
21 A. No.	21 A. Yes.
22 Q. Who do you consider to be your	22 MR. REESE: Can we go off the record
Page 39	Page 41
1 lawyers in this case?	1 real quick.
2 A. Michael Reese.	2 MR. McLISH: Okay.
3 MR. REESE: Present.	3 THE VIDEOGRAPHER: This is the end of
4 A. Kim Richman and Rebecca Tingey.	4 tape number one. We're going off the
5 Q. Anyone else?	5 record at 10:49 a.m.
6 A. No.	6 (Recess taken)
7 Q. Have you had contact with any other	7 THE VIDEOGRAPHER: We are starting
8 lawyers in connection with your lawsuit against	8 tape number two. Going back on the record
9 Wendy's?	9 at 10:55 a.m.
10 A. No.	10 BY MR. McLISH:
11 Q. Have you ever spoken to anyone at the	11 Q. Ms. McLawrence, we were discussing
12 law firm of Milberg Weiss, also known as Milberg	12 the last time you visited Wendy's, you said which
13 LLP, in connection with this lawsuit?	13 was in April 2008, is that right?
14 A. No.	14 A. Yes.
15 Q. Do you have any financial interest in	15 Q. What Wendy's did you visit last
16 the outcome of this lawsuit other than what you	16 month?
17 would receive as damages if your claims are	17 A. The one on 57th Street near to my
18 successful?	18 workplace.
19 A. No.	19 Q. So that's 57th and what?
20 Q. Have you ever had any business	20 A. 57th and Eighth Avenue.
21 dealings with any of your lawyers?	21 Q. What time of day was it when you
22 A. No.	22 visited Wendy's?

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1 A. Two.	1 Q. More than five times?
2 Q. So that would be two times in January	2 A. No.
3 2008 --	3 Q. So between one and five times?
4 A. Uh-huh.	4 A. Yes.
5 Q. -- that you visited Wendy's?	5 Q. Any other Wendy's locations that you
6 A. Right.	6 visited in 2007 other than the Fulton Street,
7 Q. Does that help you remember more	7 80th Street locations in Brooklyn or the 57th and
8 precisely how many times you've eaten at Wendy's	8 Eighth location in Manhattan?
9 since then?	9 A. No.
10 A. Two times.	10
11 Q. So you now think there were four	11
12 occasions in 2008 when you visited Wendy's,	12
13 right?	13
14 A. Yes.	14
15 Q. Three of them at 57th and Eighth in	15 REDACTED
16 Manhattan and once on 80th in Brooklyn?	16
17 A. Yes.	17
18 Q. In 2007 when you ate at Wendy's	18
19 approximately every two weeks, was there a	19
20 particular Wendy's location that you regularly	20
21 went to?	21
22 A. The one on 80th Street earlier in the	22
Page 47	Page 49
1 year and after I started working it was the	1
2 Wendy's on 57th Street.	2
3	3
4	4
5	5
6 REDACTED	6
7	7
8	8
9	9
10	10 REDACTED
11 Q. Other than those two Wendy's	11
12 locations, any other Wendy's that you recall	12
13 going to in 2007?	13
14 A. There's one in Brooklyn, Fulton	14
15 Street.	15
16 Q. Fulton Street in Brooklyn?	16
17 A. Uh-huh.	17
18 Q. How many times did you go to the	18
19 Fulton Street Wendy's in 2007?	19
20 A. I don't remember.	20
21 Q. More than once?	21
22 A. Yes.	22

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<p>1 2 3 4 5 6 7 8 9 10 11 REDACTED 12 13 14 15 16 17 18 19 20 21 22</p>	<p>1 2 3 A. Yes. 4 Q. Prior to 2006 did you regularly eat 5 at Wendy's? 6 A. Yes. 7 Q. Just as -- I know you can't give me a 8 precise number but how many times would you say 9 you had eaten at Wendy's in your life up until 10 2006? 11 A. Maybe a hundred something, a hundred. 12 Q. How frequently since the beginning of 13 2006 have you eaten at a McDonald's? 14 A. Can you repeat the question. 15 Q. How frequently since the beginning of 16 2006 have you eaten at McDonald's? 17 A. Maybe once every month and a half. 18 Q. Same time period since the beginning 19 of 2006, how many times have you eaten at a 20 Burger King? 21 A. Once every three months. 22 Q. When you go, when you visited a</p>
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<p>1 2 3 4 5 6 7 8 9 10 REDACTED 11 12 13 14 15 16 17 18 19 20 21 22</p>	<p>1 McDonald's or a Burger King, have you generally 2 ordered french fries? 3 A. I've ordered french fries before. 4 Q. Is it your practice usually to get 5 french fries when you go to McDonald's or Burger 6 King? 7 MR. REESE: Objection to the term 8 "practice." 9 You can answer if you understand. 10 A. Yes. 11 Q. Is it your normal routine to order 12 french fries when you go out for fast food, is 13 that right? 14 A. Yes. 15 Q. And that's true of when you go to 16 Wendy's, when you go to McDonald's, when you go 17 to Burger King, right? 18 A. Yes. 19 Q. Now, other than the three we've 20 talked about, Wendy's, McDonald's, Burger King, 21 since the beginning of 2006 have you gone to 22 other fast food restaurants?</p>

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<p>1 A. No.</p> <p>2 Q. Kentucky Fried Chicken for example?</p> <p>3 A. No.</p> <p>4 Q. Taco Bell?</p> <p>5 A. No.</p> <p>6 Q. During that period beginning in 2006</p> <p>7 until today have you ordered french fries from</p> <p>8 other food establishments besides Wendy's,</p> <p>9 McDonald's and Burger King which we've talked</p> <p>10 about?</p> <p>11 A. Yes.</p> <p>12 Q. What sorts of places have you ordered</p> <p>13 french fries from?</p> <p>14 A. Restaurants, diners.</p> <p>15 Q. How frequently do you eat french</p> <p>16 fries from restaurants or diners during that</p> <p>17 period January 2006 to now?</p> <p>18 A. Once every two months.</p> <p>19 Q. Now, when you have visited a Wendy's</p> <p>20 store, and again I'm talking about this period</p> <p>21 January 2006 to the present, do you typically</p> <p>22 order the same food each time you go?</p>	<p>1 Q. You mentioned that the last time you</p> <p>2 went to Wendy's in April 2008 you went around</p> <p>3 2 p.m. in the afternoon, is that a typical time</p> <p>4 for you to go to Wendy's?</p> <p>5 A. Yes.</p> <p>6 Q. Are there occasions since the</p> <p>7 beginning of 2006 when you've been to a Wendy's</p> <p>8 and someone else has paid for your food?</p> <p>9 A. No.</p> <p>10 Q. During that same time period have you</p> <p>11 ever gone to Wendy's with someone else?</p> <p>12 A. Yes.</p> <p>13 Q. Who else have you visited Wendy's</p> <p>14 with?</p> <p>15 A. Friends.</p> <p>16</p> <p>17 REDACTED</p> <p>18</p> <p>19</p> <p>20 A. Krystle Broadbelt, K-r-y-s-t-l-e,</p> <p>21 B-r-o-a-d-b-e-l-t.</p> <p>22 Q. Anyone else you can think of?</p>
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<p>1 A. No.</p> <p>2 Q. Do you sometimes eat hamburgers at</p> <p>3 Wendy's?</p> <p>4 A. Yes.</p> <p>5 Q. Is there a particular size or type of</p> <p>6 hamburger that you order when you do order</p> <p>7 hamburgers at Wendy's?</p> <p>8 A. No.</p> <p>9 Q. So sometimes you'll have a single,</p> <p>10 sometimes you'll have a double, sometimes you'll</p> <p>11 have one of their bacon cheeseburgers, is that</p> <p>12 right?</p> <p>13 MR. REESE: Objection to form.</p> <p>14 A. Yes.</p> <p>15 Q. Do you typically order at Wendy's off</p> <p>16 of the combo meal menu?</p> <p>17 A. Yes.</p> <p>18 Q. When you've gone to Wendy's during</p> <p>19 this period January 2006 to the present, do you</p> <p>20 typically go at lunchtime or dinnertime or some</p> <p>21 other time?</p> <p>22 A. Lunchtime.</p>	<p>1 A. No.</p> <p>2 Q. How many times did you go to a</p> <p>3 Wendy's with James Handral from the beginning of</p> <p>4 2006 to now?</p> <p>5 A. About five.</p> <p>6 Q. How do you know him? Is he someone</p> <p>7 you work with?</p> <p>8 A. No, I went to college with him.</p> <p>9 Q. So the times you went to Wendy's with</p> <p>10 him, would that have been in Albany?</p> <p>11 A. Yes.</p> <p>12 Q. And Krystle Broadbelt, how many times</p> <p>13 did you go to Wendy's with her from early 2006 to</p> <p>14 now?</p> <p>15 A. I went to college with her and</p> <p>16 probably about three times.</p> <p>17 Q. And that would have been in Albany as</p> <p>18 well?</p> <p>19 A. Yes.</p> <p>20 Q. So the times you visited Wendy's in</p> <p>21 Manhattan and Brooklyn since the beginning of</p> <p>22 2006 you've been by yourself?</p>

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<p>1 A. Yes.</p> <p>2 Q. How is your health generally?</p> <p>3 A. Good.</p> <p>4 Q. Are you claiming that consuming trans</p> <p>5 fat in Wendy's food caused you any physical</p> <p>6 injury?</p> <p>7 A. No, but I do know that trans fat are</p> <p>8 bad for me.</p> <p>9 Q. And has the consumption of trans fat</p> <p>10 in Wendy's food had any effect on your health</p> <p>11 that you know of?</p> <p>12 A. No.</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17 REDACTED</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11 REDACTED</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
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<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11 REDACTED</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9 REDACTED</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18 Q. That sounds familiar.</p> <p>19 MR. REESE: To us that's considered</p> <p>20 heavy exercise, right?</p> <p>21 Q. How would you describe your eating</p> <p>22 habits generally?</p>

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<p>1 A. No.</p> <p>2 Q. You bought them for others?</p> <p>3 A. Yes.</p> <p>4 Q. You bring them to the office?</p> <p>5 A. Yes.</p> <p>6 Q. Do you go to Starbucks?</p> <p>7 A. Yes.</p> <p>8 Q. Do you -- what do you order at</p> <p>9 Starbucks?</p> <p>10 A. Tea.</p> <p>11 Q. Anything else?</p> <p>12 A. No.</p> <p>13 Q. Do you eat crackers?</p> <p>14 A. No.</p> <p>15 Q. Chips?</p> <p>16 A. No.</p> <p>17 Q. Cookies?</p> <p>18 A. No.</p> <p>19 Q. Pizza?</p> <p>20 A. Yes.</p> <p>21 Q. How often do you eat pizza?</p> <p>22 A. Once every two months.</p>	<p>1 Q. When you go out to restaurants do you</p> <p>2 order salads?</p> <p>3 A. Sometimes.</p> <p>4 Q. And what sort of salad dressing do</p> <p>5 you ask for typically?</p> <p>6 A. Thousand Island.</p> <p>7 Q. Any others?</p> <p>8 A. No.</p> <p>9 MR. McLISH: How are we doing on</p> <p>10 time?</p> <p>11 THE VIDEOGRAPHER: You have 11</p> <p>12 minutes.</p> <p>13 MR. McLISH: Let's take a break at</p> <p>14 this point.</p> <p>15 THE VIDEOGRAPHER: We're at the end</p> <p>16 of tape number two. We're going off the</p> <p>17 record at 11:45 a.m.</p> <p>18 (Recess taken)</p> <p>19 THE VIDEOGRAPHER: We're at the start</p> <p>20 of tape number three, we're going to go</p> <p>21 back on the record at 11:53 a.m.</p> <p>22 BY MR. McLISH:</p>
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<p>1 Q. Is there any particular place where</p> <p>2 you'd go for pizza?</p> <p>3 A. The local pizza store.</p> <p>4 Q. Local to you in Brooklyn?</p> <p>5 A. Yeah.</p> <p>6 Q. Do you know what it's called?</p> <p>7 A. No.</p> <p>8 MR. REESE: It should have a Ray in</p> <p>9 the name. There's like 15 variations of</p> <p>10 original famous Ray's, so I'm going to ask</p> <p>11 the witness not to guess.</p> <p>12 Q. You mentioned that you eat salads, do</p> <p>13 you use salad dressing?</p> <p>14 A. Yes.</p> <p>15 Q. What kind of salad dressing do you</p> <p>16 use?</p> <p>17 A. Caesar.</p> <p>18 Q. That you buy in the store or that you</p> <p>19 make?</p> <p>20 A. I buy in the store.</p> <p>21 Q. Do you know what brand?</p> <p>22 A. It varies.</p>	<p>1 Q. Ms. McLawrence, when did you first</p> <p>2 hear of trans fat?</p> <p>3 A. I first heard about it in 2006.</p> <p>4 Q. What did you hear about trans fat for</p> <p>5 the first time in 2006?</p> <p>6 A. I had heard that Wendy's was banning</p> <p>7 trans fat in its food in 2006.</p> <p>8 Q. That was the first you had ever heard</p> <p>9 of something called trans fat?</p> <p>10 A. Yes.</p> <p>11 Q. What specifically did you hear about</p> <p>12 Wendy's and trans fat at that time?</p> <p>13 A. I just, I heard on the radio that</p> <p>14 they were -- that there was going to be zero</p> <p>15 grams of trans fat being used in the fried</p> <p>16 products at Wendy's.</p> <p>17 Q. When in 2006 did you hear this?</p> <p>18 A. I don't remember when.</p> <p>19 Q. You said you heard it on the radio,</p> <p>20 is that right?</p> <p>21 A. Yes.</p> <p>22 Q. Was it a radio advertisement or a</p>

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<p>1 news item on the radio?</p> <p>2 A. It was a news station, I don't</p> <p>3 remember what radio station it was.</p> <p>4 Q. Do you recall whether it was a news</p> <p>5 item about Wendy's or was it an advertisement</p> <p>6 that you heard?</p> <p>7 A. The commentator was doing a story</p> <p>8 about Wendy's, I believe.</p> <p>9 Q. So it was not an advertisement then,</p> <p>10 is that right?</p> <p>11 A. I don't remember.</p> <p>12 Q. Prior to this item that you heard on</p> <p>13 the radio in 2006 you had never heard of trans</p> <p>14 fat, is that right?</p> <p>15 A. No.</p> <p>16 Q. No, you had never heard of it,</p> <p>17 correct?</p> <p>18 A. Correct.</p> <p>19 Q. After this radio item that you've</p> <p>20 described, when was the next time that you heard</p> <p>21 anything about trans fat?</p> <p>22 A. The next time was when I heard that</p>	<p>1 Q. Anything else?</p> <p>2 A. No.</p> <p>3 Q. When you heard, the first time you</p> <p>4 ever heard about trans fat, when you heard an</p> <p>5 item on the radio about Wendy's, what did you</p> <p>6 learn about trans fat from that item?</p> <p>7 A. At that time that item didn't say</p> <p>8 anything about the effects of trans fat, it just</p> <p>9 stated that Wendy's uses fat in its trans fat</p> <p>10 foods.</p> <p>11 Q. Did that have any effect on you?</p> <p>12 A. It did because right after that I</p> <p>13 just started seeing a lot of press about trans</p> <p>14 fat and how negative trans fat is.</p> <p>15 Q. Did there come a time when you</p> <p>16 stopped eating fried food in order to avoid trans</p> <p>17 fat?</p> <p>18 A. No.</p> <p>19 Q. Did you make any effort to avoid</p> <p>20 eating trans fat?</p> <p>21 A. Yes.</p> <p>22 Q. What effort did you make to avoid</p>
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<p>1 New York had banned the usage of trans fat in</p> <p>2 restaurants.</p> <p>3 Q. When was that?</p> <p>4 A. I don't remember.</p> <p>5 Q. Where did you hear that information?</p> <p>6 A. Television news.</p> <p>7 Q. When is the next time you heard</p> <p>8 anything about trans fat?</p> <p>9 A. After that I just continuously heard</p> <p>10 just all different advertisements about trans</p> <p>11 fat. For instance I saw like Pringles saying</p> <p>12 they didn't use trans fat in their chips, that's</p> <p>13 the next time I saw anything about it.</p> <p>14 Q. What's your understanding of what</p> <p>15 trans fat is?</p> <p>16 A. I just know that it's bad for the</p> <p>17 heart and that it clogs arteries and that it's</p> <p>18 just generally bad for people.</p> <p>19 Q. What's your understanding of what</p> <p>20 types of foods trans fat is found in?</p> <p>21 A. I understand it's used in oil in</p> <p>22 usually fried foods.</p>	<p>1 eating trans fat?</p> <p>2 A. Well, after I heard the announcement</p> <p>3 on the radio, I had assumed that Wendy's wasn't</p> <p>4 using trans fat in its foods so I started going</p> <p>5 to Wendy's a lot more as opposed to other fast</p> <p>6 food restaurants. And I also started eating at</p> <p>7 home a lot more as well.</p> <p>8 Q. It's true though that you did</p> <p>9 continue to eat at McDonald's and Burger King,</p> <p>10 right?</p> <p>11 A. Yes.</p> <p>12 Q. And you were aware that the fried</p> <p>13 food at McDonald's and Burger King had trans fat</p> <p>14 in it, right?</p> <p>15 A. I was not aware of that.</p> <p>16 Q. You understood that trans fat was</p> <p>17 found in fried foods, right?</p> <p>18 A. Yes.</p> <p>19 Q. And you understood that french fries</p> <p>20 are fried, right?</p> <p>21 A. Yes.</p> <p>22 Q. And you typically ordered french</p>

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<p>1 have is from what I heard on the radio.</p> <p>2 Q. So the last time you went to Wendy's</p> <p>3 in April of 2008, did you have an understanding</p> <p>4 as to how much trans fat was in the food that you</p> <p>5 were purchasing from Wendy's?</p> <p>6 A. Well, I don't understand the</p> <p>7 question.</p> <p>8 Q. Did you have in your mind some belief</p> <p>9 as to how much trans fat was in the food that you</p> <p>10 were buying from Wendy's that day in April 2008?</p> <p>11 A. Yes.</p> <p>12 Q. What was your belief as to how much</p> <p>13 trans fat was in the food you were buying?</p> <p>14 A. Well, I assumed that because I had</p> <p>15 made this lawsuit that there would be no trans</p> <p>16 fat being used in the food at this point.</p> <p>17 Q. Any other basis for your belief that</p> <p>18 there was not trans fat in the food that you were</p> <p>19 purchasing from Wendy's on that occasion in April</p> <p>20 2008?</p> <p>21 A. No.</p> <p>22 Q. Prior to the time you became a</p>	<p>1 that ban went into effect?</p> <p>2 A. I understood that that was -- that</p> <p>3 had been in effect in 2007.</p> <p>4 Q. When you visited Wendy's restaurants</p> <p>5 in 2007, did you have a belief as to the amount</p> <p>6 of trans fat in the Wendy's food that you were</p> <p>7 purchasing when you visited Wendy's?</p> <p>8 A. In 2007 I believed that there was no</p> <p>9 trans fat being used in the food.</p> <p>10 Q. And during that time period what was</p> <p>11 that belief based on?</p> <p>12 A. Because I had heard that there was no</p> <p>13 trans fat because Wendy's made the announcement</p> <p>14 that there was no trans fat being used in the</p> <p>15 food, and also because I had heard that it was</p> <p>16 being banned throughout New York.</p> <p>17 Q. Would your answer be the same for</p> <p>18 2006, at least for the time period after you</p> <p>19 heard this initial radio item?</p> <p>20 A. Yes.</p> <p>21 Q. When you visited a Wendy's store,</p> <p>22 have you ever looked at the nutritional poster</p>
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<p>1 plaintiff in the lawsuit, say on one of the</p> <p>2 occasions in January 2008 when you went to</p> <p>3 Wendy's before you became a plaintiff, did you</p> <p>4 have a belief as to the amount of trans fat in</p> <p>5 the food you were getting from Wendy's on those</p> <p>6 days?</p> <p>7 A. I believed that there was no trans</p> <p>8 fat in the food.</p> <p>9 Q. What was that belief based on?</p> <p>10 A. On the fact that I had heard that</p> <p>11 there was no trans fat being used in the fried</p> <p>12 products.</p> <p>13 Q. And you had heard that in the one</p> <p>14 radio item you had described, right?</p> <p>15 A. Yes.</p> <p>16 Q. And had you heard it anywhere else?</p> <p>17 A. After that I had heard it was banned</p> <p>18 in New York.</p> <p>19 Q. Was it your understanding that that</p> <p>20 ban had gone into effect?</p> <p>21 A. Yes.</p> <p>22 Q. What's your understanding of when</p>	<p>1 that's displayed in the stores?</p> <p>2 A. No.</p> <p>3 Q. Have you ever visited the Wendy's.com</p> <p>4 website?</p> <p>5 A. No.</p> <p>6 Q. Have you ever been to a website</p> <p>7 called Mom-RD?</p> <p>8 A. No.</p> <p>9 Q. Have you ever seen a television</p> <p>10 advertisement for Wendy's that mentions trans</p> <p>11 fat?</p> <p>12 A. No.</p> <p>13 Q. Other than the one radio item that</p> <p>14 you described, which you're not sure as I</p> <p>15 understand it whether it was an advertisement or</p> <p>16 a news item, have you ever heard a radio</p> <p>17 advertisement for Wendy's that mentions trans</p> <p>18 fat?</p> <p>19 A. No.</p> <p>20 Q. Have you ever seen or heard any other</p> <p>21 kind of advertisement such as a billboard or in a</p> <p>22 newspaper or magazine, the side of a bus, in the</p>

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<p>1 subway, an advertisement for Wendy's that</p> <p>2 mentions trans fat?</p> <p>3 A. No.</p> <p>4 Q. Have you ever read a press release</p> <p>5 issued by Wendy's that mentions trans fat?</p> <p>6 A. No.</p> <p>7 Q. Have you ever seen any Wendy's</p> <p>8 packaging or bags that say anything about trans</p> <p>9 fat?</p> <p>10 A. Um --</p> <p>11 Q. Let me limit that and say set aside</p> <p>12 documents or things that your lawyers might have</p> <p>13 shown you. So outside of conversations with your</p> <p>14 lawyers, have you ever seen any packaging or bags</p> <p>15 from Wendy's that reference trans fat?</p> <p>16 A. No.</p> <p>17 Q. Have you ever read any articles from</p> <p>18 Consumer Reports Magazine that refer to the</p> <p>19 amount of trans fat in Wendy's food, aside from</p> <p>20 anything your lawyers might have shown you?</p> <p>21 A. No.</p> <p>22 Q. In what way have you been injured, if</p>	<p>1 right?</p> <p>2 A. No.</p> <p>3 Q. No, you can't tell me?</p> <p>4 A. No, I can't tell you.</p> <p>5 Q. For all you know the items that you</p> <p>6 purchased from Wendy's since June 2006 have had</p> <p>7 no trans fat in them, right? Setting aside what</p> <p>8 your lawyers may have told you, is that right?</p> <p>9 MR. REESE: Or shown you from the</p> <p>10 defendant's own documents.</p> <p>11 A. Yes.</p> <p>12 Q. As I understand it from your earlier</p> <p>13 testimony, you're not claiming any physical</p> <p>14 injury from the trans fat you believe you ate in</p> <p>15 Wendy's food, right?</p> <p>16 A. Yes.</p> <p>17 Q. Are you claiming any monetary injury?</p> <p>18 MR. REESE: Objection. Asked and</p> <p>19 answered. She just answered that</p> <p>20 question.</p> <p>21 You can answer it again.</p> <p>22 A. No.</p>
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<p>1 at all, by the conduct that you are complaining</p> <p>2 about in this lawsuit?</p> <p>3 A. Well, I feel that, um, I purchased</p> <p>4 something that I didn't received because I</p> <p>5 purchased Wendy's food assuming that it didn't</p> <p>6 have trans fat in it, but it did in fact have</p> <p>7 trans fat in it at the time that it was</p> <p>8 purchased.</p> <p>9 Q. And what's the basis for your belief</p> <p>10 that the food you purchased from Wendy's had</p> <p>11 trans fat in it?</p> <p>12 MR. REESE: I would just instruct the</p> <p>13 witness if your belief is based upon</p> <p>14 communications you had with counsel, you</p> <p>15 can answer his question without disclosing</p> <p>16 our actual communications.</p> <p>17 A. It's based on communications with my</p> <p>18 counsel.</p> <p>19 Q. Is it fair to say that on all the</p> <p>20 occasions that you've gone to Wendy's and</p> <p>21 purchased food you can't tell me how much trans</p> <p>22 fat was in the food that you purchased, is that</p>	<p>1 Q. Since June of 2006, how much money</p> <p>2 would you estimate you have spent on french fries</p> <p>3 at Wendy's?</p> <p>4 MR. REESE: Does anybody have a</p> <p>5 calculator?</p> <p>6 A. Like \$200.</p> <p>7 Q. How much money would you say you've</p> <p>8 spent on Wendy's fried chicken products since</p> <p>9 June 2006?</p> <p>10 A. About the same, \$200.</p> <p>11 Q. Again focusing on the period from</p> <p>12 June 2006 to the present, if you had known the</p> <p>13 true amount of trans fat in the Wendy's french</p> <p>14 fries and chicken products would you have been</p> <p>15 willing to buy them at a lower price?</p> <p>16 A. No.</p> <p>17 Q. So if you had known what you</p> <p>18 understand to be the true amount of the trans fat</p> <p>19 in Wendy's food, you would not have purchased</p> <p>20 them at all, is that right?</p> <p>21 A. Right.</p> <p>22 Q. So as I understand it, your complaint</p>

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